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**PROMOTION AND PROTECTION OF ALL HUMAN RIGHTS, CIVIL,  
POLITICAL, ECONOMIC, SOCIAL AND CULTURAL RIGHTS,  
INCLUDING THE RIGHT TO DEVELOPMENT**

**Information submitted by the Kenya National Commission on Human Rights \***

**Note by the Secretariat**

The Secretariat of the Human Rights Council hereby transmits the communication submitted by the Kenya National Commission on Human Rights,\*\* reproduced below in accordance with rule 7(b) of the rules of procedures described in the annex to Council resolution 5/1, according to which participation of national human rights institutions is to be based on arrangements and practices agreed upon by the Commission on Human Rights, including resolution 2005/74 of 20 April 2005.

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\* National human rights institution with “A” status accreditation from the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights.

\*\* Reproduced in the annex as received, in the language of submission only.

## **ANNEX**

### **Brief on Extrajudicial Executions in Kenya prior to and after the Mission to Kenya by the United Nations Special Rapporteur on Extrajudicial, Arbitrary and Summary Executions between 16-25 February 2009**

#### **Introduction**

Insecurity has continually posed serious human rights concerns and challenges in Kenya and the world over. Blatant disregard for the rule of law and due process by security actors including the military, police and national intelligence has often times resulted in gross violation of fundamental human rights. Weak enforcement institutions, legislation and lack of oversight mechanisms create opportunities for security agents to act in a non-transparent manner, violating human rights with impunity.

In Kenya, like in many other developing countries and emerging democracies, the challenges of insecurity are very real. The lack of technical capacity and resources to deal with crises of such magnitude by the security agencies including the National Security Intelligence Service (NSIS) is glaring. Intermittent emergence of organized criminal groups such as the Mungiki, Sabaot Land Defence Force among others, causing mayhem in various parts of the country has had many citizens questioning the capability of the State to ensure their security.

Security agents continue to violate human rights with impunity. Some of the human rights violations attributed to security forces include extra-judicial executions and torture. The KNCHR has documented some of the testimonies of the victims of violation by State security agencies and the same were confirmed by the Special Rapporteur on Extrajudicial, Arbitrary and Summary Executions Prof. Philip Alston during his fact finding mission in February 2009.

The challenges of insecurity in Kenya are real. Criminals and organized criminal gangs continue to pose a real threat to the enjoyment of fundamental rights in Kenya. Without regard to the right to life, crime in Kenya is increasingly violent occasioning loss of life and untold suffering in the hands of criminals. Criminal gangs levy "taxes" in the slum and rural areas of Kenya, they extort hardworking citizens and coerce entrepreneurs to pay fees to guarantee their security.

The Kenya government must therefore be supported in constitutional and legal efforts to bring and maintain security in Kenya. Whereas the public "begs" for quick results and often time extrajudicial killings receive enormous public support, this spiral of violence by both State and non-state actors must be stopped. The only way to ensure sustainable security is through judicial means and extrajudicial executions cannot be tolerated whatever the circumstances or whatever the justifications.

#### **Extra-judicial Executions**

Between 2007 and 2009, the Kenya National Commission on Human Rights (KNCHR) investigated and documented killings and disappearances of hundreds of young men allegedly perpetrated by the State agents. The KNCHR has established that the state agents especially the

Kenya police were involved in the extra-judicial executions of these young men ostensibly in their war to fight and eliminate organized criminal gangs. The Kenya Police formed specialized units such as the *Kwekwe* squad which was mandated to curb organized crime.

However, the specialized squads mutated into killer squads and extortion rings, operating with impunity and were grossly involved in extra-judicial killings and disappearances of young men often the poor from Central and Nairobi Provinces of Kenya. The KNCHR released a preliminary report on extrajudicial killings in October 2007 upon which time KNCHR requested the Special Rapporteur on extrajudicial executions through the Office of the UN High Commissioner for Human Rights to seek authority from the Kenya government to conduct a fact finding mission to Kenya and a final report *'The Cry of Blood, a report on Extrajudicial Killings and Disappearances'* released in September 2008 detailing the killings and disappearances.

The KNCHR's findings have been backed by reports of civil society organizations and the preliminary findings of the UN Special Rapporteur for Extra-Judicial, Arbitrary or Summary Executions, Prof. Philip Alston at the conclusion of his 10 day fact-finding mission to Kenya between 16<sup>th</sup> - 25<sup>th</sup> February 2009.

Prof Alston's report among other things condemned the police for carrying out extra judicial killings of many young men mainly from Central and Nairobi Provinces and the Mt. Elgon region. He also called for the official acknowledgment by the President of the existence of widespread extra judicial killings and need for sweeping reforms within the police sector. The dismissal of the Police Commissioner, Maj. Gen Hussein Ali and the setting up of an independent police oversight body with sufficient resources and powers to investigate and institute prosecutions against police officers were among his key recommendations.

Recommendations from both the preliminary report of the Special Rapporteur on extrajudicial killings and KNCHR reports have been dismissed by government authorities. The call for Police reforms though has acquired high political and public momentum prompting the government to constitute a task force on police reform pursuant to the proposed items of the Kenya National Dialogue and Reconciliation Agreement brokered by former UN Secretary General Koffi Annan in February 2008 following the violence that gripped Kenya after the disputed Presidential elections of December 2007.

## **Torture**

Torture has been endemic within the Kenyan criminal justice system. In March 2008, there were reports of widespread torture in Mt. Elgon region following a joint police-military operation against the Sabaot Land Defence Force (SLDF) militia which used violent means in agitating for their land rights. The KNCHR carried out investigations into the Mt. Elgon operation and compiled a report titled *"The Mountain of Terror, A Report on the Investigations of Torture by The Military at Mt. Elgon"* which contains detailed accounts on the atrocities and killings of hundreds of men by the military.

These findings were corroborated by the reports of other human rights and humanitarian organizations including the Human Rights Watch (HRW), Independent Medical Legal Unit (IMLU) and Medecins Sans Frontiers and the International Committee of the Red Cross (ICRC).

However, the security agencies in their characteristic way have disputed these reports and denied the instances of torture and extrajudicial executions despite the documentation including reports of medical examination indicating systemic torture having occurred.

### **Recent Developments**

Immediately after the release of the interim report by Professor Alston on the 25<sup>th</sup> of February 2009, there followed a well orchestrated crescendo of anti-Alston propaganda and denials by the Kenya government, which argued that Professor Alston was simply a stranger who had come to Kenya for ten days and then left. This was despite the fact that the invitation to the Special Rapporteur was extended by the Kenya government.

They therefore questioned his authority to release a report with such far-reaching recommendations. The government also argued that the Special Rapporteur had over-stepped his mandate by publicly calling for the resignation of the Attorney-General and the dismissal of the Commissioner of Police.

There was also an intensified campaign to intimidate Human Rights Defenders (HRDs) and persons who in one way or the other participated in the preparation of the UN Special Rapporteur's report which saw some of them flee to neighbouring countries. Indeed threats to HRDs are on the increase. The principle aim of these threats is to adversely impact on human rights work in Kenya especially with respect to accountability and impunity.

Notably, on the 5th of March, 2009 a few days after the mission to Kenya of the Special Rapporteur, the Government spokesman, Dr. Alfred Mutua, denounced the Oscar Foundation as a *Mungiki* front, and warned that the government would take stern action. The Oscar Foundation was involved in mobilizing witnesses to shed light on the extra-judicial killings. On the same day at about 1700 hours, Oscar Kingara, the founder of Oscar Foundation, together with G.P Oulu, a programme officer at the Foundation, were gunned down by persons suspected to be police Officers near the University of Nairobi as they made their way to meet a KNCHR officer Mr. Kamanda Mucheke. There has been little progress on the investigations of these murders despite assurances from the police. Equally the Kenya government turned down offers for an independent investigation extended by some foreign missions in Kenya including the United States embassy in Kenya.

On the 28th of March 2009, KNCHR received an e-mail from a university student on behalf of six others who worked closely with the Oscar Foundation as researchers. They too have had to flee the country for fear of their personal safety.

The KNCHR is concerned by the emergence of militia/vigilante groups in parts of the country which have been formed to counter the outlawed Mungiki sect and “combat” crime in general. These groups reportedly operate with the tacit support of the police. Whereas KNCHR appreciates the concerns and possibly the desperation of the citizens of Kenya towards insecurity, the primary responsibility of ensuring the security of all Kenyans remains that of the government. In fact it is incomprehensible that ordinary citizens would take it upon themselves

to combat organized criminal gangs which are better organized and possibly well armed and ruthless.

The police cannot abdicate its responsibility. It is their responsibility to protect the citizens of Kenya and to curb the crime and violence being perpetrated by both criminals and the vigilante groups. Worth noting though is that vigilante groups have condemned reports by human rights organizations and Prof. Alston. Notably the killings by a vigilante group known as 'the Hague' of about 20 suspected Mungiki members in April/May 2008 were highly publicized in the local media. In what was reported to be revenge attacks by the Mungiki left 29 suspected members of 'the Hague' and their sympathizers dead. The government must bring this cycle of violence to an end and adopt effective ways of combating organized crime

The KNCHR is greatly concerned by the implications of this development on the already volatile security situation in the country. Further the vigilante phenomenon has lead to massive tensions amongst residents of the affected areas who now live in constant fear and suspicion towards each other. This has immensely disrupted the social and economic order in the respective areas with women and children bearing the highest brunt.

To date little has been done to implement recommendations from the preliminary report of Professor Alston. However, on 7th May, 2009 President Mwai Kibaki gazzetted a task force on Police reform. The taskforce is to take into consideration the recommendations of the Commission of Inquiry into Post Election Violence (CIPEV) commonly referred to as the Waki commission and the Independent Review Commission (IREC) commonly referred to as the Kriegler's Commission, to overhaul the police force. This is a positive step taken to reform the Police Force.

## **Conclusion**

Based on the foregoing and in tandem with its core mandate, the Kenya National Commission on Human Rights recognizes the need for Security Sector Reforms towards greater respect for and protection of human rights in Kenya.

The KNCHR is created by statute with a mandate to protect and to promote human rights. It is the lead Government human rights watchdog agency. Its function include investigating complaints, advising Government on issues related to victim compensation and conducting prison and police station visits, though more often than not, the police have prevented access to police stations.

Agenda Item 4 of the Kenyan National Dialogue and Reconciliation and the Waki Report provides an entry point through which KNCHR can advocate for security sector policy and legislative reforms. KNCHR will seek to be enjoined in the process of finalizing the National Security Policy and for participation of the public and civil society in the process. KNCHR has been at the forefront of advocating for the establishment of an Independent Police Oversight Body which would ensure that security officers are accountable to the citizens and responsive to their needs. The Waki Commission report recommended that an Independent Police Conduct

Authority be established with the legislative powers and authority to investigate police conduct and provide civilian oversight<sup>1</sup>

On 4th September 2008, the Minister for Internal Security, through a Special Issue of the Kenya Gazette, established a 10 member Police Oversight Board. Though there are several conceptual problems with the proposed model, the establishment of the Board was an important first step towards police accountability. However the Oversight Board has not demonstrated any meaningful efforts or steps towards police accountability.

The government has so far not implemented the preliminary recommendations proposed by the UN Special Rapporteur on extrajudicial, arbitrary or summary executions in his mission to Kenya.

Neither have the broad recommendations contained in reports of the Kenya National Commission on Human Right which are largely about accountability been implemented in any way.

Herewith attached are:

1. A summary of the reports previously released by KNCHR:
  - a) "The Mountain of Terror, A Report on the Investigations of Torture by the Military in Mt. Elgon" Kenya National Commission on Human Rights, May 2008
  - b) "The Cry of Blood, A Report on Extrajudicial Killings and Disappearances" Kenya National Commission on Human Rights, September, 2008
2. An appendix of the statement to the Kenya National Commission on Human Rights by former police officer turned whistle blower Bernard Kiriinya and executed in October, 2008 under mysterious circumstances

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<sup>1</sup> Waki Report, p. 482

## SUMMARY DOCUMENT ON EXTRA JUDICIAL EXECUTIONS IN KENYA

### A. CONTEXT

1. Kenya's history of law enforcement is hard to separate from intermittent reports of summary, arbitrary as well as extra-judicial executions by civilians upon civilians, but more by the Police Force and other security agencies against civilians. This report refers to both summary and arbitrary executions where an individual is deprived of his/her right to life without being apprehended into lawful custody and taken through due process, as well as extra-judicial executions where an individual is arrested and taken into custody but is killed by law enforcement agencies without due process.
2. Violations to the right to life have happened against the backdrop of a culture of violence which is perpetuated by a lack of properly functioning criminal justice agencies including the judiciary. This often causes citizens to take the law into their own hands and mete out instant "street justice" to alleged criminals many of whom are deprived of their lives on mere suspicion of having committed an offence. In such an environment, citizens lose the moral authority to call the law enforcement agencies to account for how they use the lethal force at their disposal.
3. Police often cite a corrupt judiciary that seems to let guilty people off and back onto the street as a reason for using lethal force in their fight against crime. In 2007, a police officer, speaking unofficially to KNCHR, confided that frustration with a dysfunctional judiciary frequently caused officers to apply a shoot-to-kill policy to known criminals because of fear that once arrested and acquitted, the criminals would hunt down the arresting officers for revenge.
4. The influx of small arms and light weapons into the country, and the corresponding increase in violent crime appear to have overwhelmed the police force and there does not seem to be a well thought out crime prevention strategy in place. Consequently, the police resort to blanket use of force to contain the situation as well as appease and reassure an increasingly anxious public that something is being done about the escalating levels of crime.
5. The mushrooming of organized armed groups such as *Mungiki*, *Sungusungu*, *Kisungusungu*, *Kamjesh*, *Jeshi la Mzee* etc. have further complicated the equation for the police in their attempts to contain crime. These gangs have thrived in informal urban settlements and some rural areas where they have filled the gap left by the absence of effective government structures. They appoint themselves to be service providers and levy fees and other "taxes" thereby assuring them of a continuous supply of revenue. Some like *Mungiki* appear to be extremely well organized and to have sympathizers among powerful politicians and to have infiltrated even the police force itself. They have therefore become impossible to contain and the police, out of frustration, have tended to resort to sweeping operations and extra-judicial execution of people on mere suspicion of belonging to these groups, especially when there is public pressure to act on the menace.

6. There is no proper legal framework for prosecuting members of illegal armed groups which has forced the police to prosecute them for such offences as touting or belonging to an illegal association which have inadequate legal punishments as compared to the offences these gang members are alleged to have committed. This would seem to tempt some police officers to implement their own form of justice to arrested gang members.
7. There are no known convictions for extra-judicial executions. The official police response to reports of extra-judicial executions has been to open inquest files for the people alleged to have been killed without further follow-up. Only two cases against police officers are ongoing despite the hundreds of people that have been reported to have been executed or missing after having been last seen under arrest by police officers.
8. In addition to extra-judicial killings in the course of fighting ordinary crimes and gang violence, security forces have also been implicated in summary and arbitrary executions in the course of special police and military operations in the North and West the country in places such as Pokot, Mandera, Samburu and Mt. Elgon.
9. There is no known policy on the use of force by police during various forms of contingences such as riot, demonstrations, civil disobedience and so on. Haphazard orders are given from the Police High Command which seem to be arbitrary and inconsistent sometimes leading to the opening of lethal force on unarmed demonstrators.

## **B. INTRODUCTION**

10. The Kenya National Commission on Human Rights (KNCHR) is an independent statutory body established under an Act of Parliament, the Kenya National Commission on Human Rights Act No.9 of 2002.<sup>2</sup> The KNCHR is mandated under Section 16 of its Constitutive Act to investigate complaints on human rights violations. Section 16(1) of the said Act states:

*“The function of the Commission shall be:*

*(a) to investigate ,on its own initiative or upon a complaint made by any person or group of persons , the violation of human rights;”*

11. The KNCHR’s Complaints and Investigations department has been duly established to receive, process and investigate the petitions received at the Commission, giving possible redress and recommendations.
12. In addition to investigating routine complaints of extra-judicial executions, KNCHR has in the last two years monitored and documented cases of extra-judicial and summary executions in Mount Elgon and following the disputed 2007 presidential election results which led to widespread violence in the country. This brief documents KNCHR’s main findings and recommendations.

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<sup>2</sup> Kenya National Commission on Human Rights, Act number 9 of 2002

### C. REGULAR COMPLAINTS RECEIVED AT KNCHR

13. Since its inception, the KNCHR has received numerous complaints against State agents, particularly the Kenya police; the Commission has therefore identified these complaints as systemic in nature. Complaints against the Kenya police include, inter alia:

- extra-judicial killings and shootings
- torture
- inaction on the part of the police to investigate criminal matters
- harassment of civilians by the police
- prolonged detention of suspects
- malicious arrests
- abuse of office
- complaints on personal security of individuals.

14. The following is an illustration of the complaints received with respect to extra-judicial killings and shootings reported and investigated by the Commission.

#### Complaints on police shootings and extra-judicial executions during 2006-2008<sup>3</sup>

Year	2006	2007	2008
New	27	79	54
Follow-up	10	25	41
Total number of complaints investigated	37	104	95

#### Geographical distribution of the complaints on police shootings and extra-judicial executions during 2006 – 2008

	Nairobi	Central	Rift Valley	Eastern	Coast	Nyanza	Western	North Eastern	Total
2006	16	8	4	3	1	3	-	-	37
2007	65	20	7	4	3	1	1	-	99
2008	43	11	2	3	3	4	1	-	83

#### Extra-judicial executions of persons suspected to be members of the outlawed Mungiki sect

15. On 11th October 2007, the KNCHR received complaints from residents of Ngong area to the effect that corpses, all bearing gunshot wounds were being systematically left in the area after summary executions. KNCHR was further informed of a common pattern in the killings; witnesses first saw Land Cruiser vehicles, similar in make and colour to those used

<sup>3</sup> Information sourced from KNCHR's Computerized File Management System. These figures do not include the alleged extra-judicial executions of persons suspected to be members of the outlawed *Mungiki* sect. These are dealt with separately in this brief.

by the Kenya police being driven around the area, where on different days, after hearing gunshots, they stumbled upon unknown dead bodies bearing gunshot wounds.

16. The KNCHR commenced investigations, and on 5/11/07, released a preliminary report indicating that the Kenya Police could have been complicit in extra-judicial executions of large numbers of Kenyan citizens, depositing their bodies in various mortuaries in the country, while leaving others to be devoured by wild animals or dumping them in various locations such as forests, desolate farms, rivers and dams.
17. The findings of the preliminary report were transmitted to the President of the Republic of Kenya and made available to all the relevant Government departments recommending that the concerned authorities act on its findings. The Police Commissioner dismissed the findings of the KNCHR as ‘highly irresponsible’ and challenged the KNCHR to ‘provide any evidence to these rather infantile accusations’. Subsequently, the Kenya Police issued its official rejoinder to the KNCHR report. The Police rejoinder did not deny the fact of the deaths but merely stated that inquest files had been opened.
18. KNCHR proceeded with further investigations to complete its report and the ensuing findings confirmed the substance of the preliminary report and revealed egregious violations of the law and fundamental human rights by the Kenya police in dealing with suspected *Mungiki* members and other alleged criminal suspect.
19. On 22/10/07, the KNCHR placed an advert in both print and electronic media calling on relatives of missing victims and other Kenyans with relevant information to come forward and record statements. As a result, KNCHR received over three hundred petitions from various sources including relatives of persons who had either disappeared or been found dead after they were arrested by people alleged to be police officers attached to the ‘*Kwekwe Squad*’ and other specialized police crack units.
20. The KNCHR also conducted visits to numerous mortuaries that included Nairobi City Mortuary, Naivasha District Hospital Mortuary, Nanyuki District Hospital Mortuary, Machakos District Hospital Mortuary, Nakuru Provincial Hospital Mortuary, Nakuru Municipal Mortuary, Nyeri Provincial Hospital Mortuary, Karatina District Hospital Mortuary, Murang’a District Hospital Mortuary, Kerugoya District Hospital Mortuary and Naivasha District Hospital Mortuary.
21. Fact-finding visits were conducted to various locations across the country after KNCHR received information that dead bodies had been discovered. The locations included Ngong, Magadi, Kiserian, Kangundo, Karura, Kieni forest, Nanyuki, Suswa and Athi River.
22. It is KNCHR’s finding that extra-judicial executions and other brutal acts of extreme cruelty have been perpetrated by the Police against so-called *Mungiki* adherents and that these acts may have been committed pursuant to official policy sanctioned by the political leadership, the Police Commissioner and top police commanders.

23. On 20/9/07, the then Minister for Foreign Affairs, Hon Raphael Tuju, participating in the “Louise Otieno Live” program on Citizen TV, said that “*For the past few months, up to 400 people were killed because they were Mungiki*”.
24. Whereas initially the police mainly used firearms to execute the suspects, they subsequently changed their *modus operandi* and began to use crude weapons. Other methods that were used included strangulations, drownings, mutilations and bludgeoning of victims. The change of strategy may have been a cover-up tactic to hoodwink members of the public into the belief that rival *Mungiki* gangs were responsible for the killings. The Kenya Police put out that theory to the public. As such, a majority of the deaths of the latter victims of the extra-judicial killings after the release of KNCHR’s preliminary report were caused by blunt trauma, strangulation, drowning or mutilation using sharp objects as illustrated by post-mortem reports attached hereinafter. Witnesses told the KNCHR that the killer squads carried machetes, iron bars, ropes and other crude weapons in their vehicles. The KNCHR in the course of conducting its investigations established that the police sometimes arrested suspects, extorted money from them and then killed them. The police then dumped the bodies in desolate farms, forests, rivers and dams, making it impossible to trace the bodies.
25. Apart from the Ngong reports, the KNCHR received reports from members of the public indicating that they saw vehicles resembling police vehicles dumping bodies in dams and forests especially in the Kiserian area and Yatta forest.
26. The KNCHR released its final report on the matter dubbed ‘*The Cry of Blood: Report on Extra-Judicial killings and Disappearances*’<sup>4</sup> on 23rd September 2008. Prior to the release of the report, the same had been presented to the Prime Minister, the Commissioner of Police through the Minister for Internal Affairs, the Minister for Justice and Constitutional Affairs as well as other relevant government officials.
27. The police seem to have adopted extra-judicial action as a strategy to fight the “*Mungiki*”, an illegal vigilante group that had, for a long time, been involved in crimes including killings, arson, forced marriages and extortion. Details of the background to the group are contained in **Annex 1** of the KNCHR’s final report.
28. The KNCHR compiled in the report at least **349** names of people who had been reported missing or who had been found dead either mysteriously or after being arrested by the police. The report further documented accounts of eyewitnesses who had witnessed the arrests by the police of at least **50** victims who subsequently disappeared or were found dead.
29. Full details of reports on extra-judicial killings are contained in **Chapter 2** of the KNCHR’s report.<sup>5</sup>

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<sup>4</sup> “The Cry of Blood: Report on Extra-Judicial killings and disappearances’. Report of the Kenya National Commission on Human Rights, released on 23rd September 2008

<sup>5</sup> Supra 2 : Pages 9-38

## **Disappearances**

30. The KNCHR also received many reports of disappearances of individuals, many of whom had allegedly been previously suspected by the police of being members of the outlawed Mungiki sect.
31. In many instances, the suspects were last seen under the arrest or in the company of police officers, and then disappeared without a trace. These disappearances took place simultaneously with the extra-judicial killings, and the modus operandi of the arrests was the same as those of the extra-judicial killings.
32. Full details of the disappearance incidents are contained in Chapter 2 of the KNCHR's report.<sup>6</sup>

## **The fatal shooting of the police whistle-blower**

33. In the process of conducting its investigations on extra-judicial killings and disappearances, the KNCHR received an account from a police officer, Mr Bernard Kiriinya (Force Service Number 51259) (hereinafter referred to as "the deceased interviewee") who was a driver of one of the special police units established to crackdown on suspected criminals particularly members of the outlawed Mungiki sect.
34. The deceased interviewee came forward to the KNCHR and provided a whistle blower's account from within the Police Force narrating numerous incidents whereby he witnessed the trailing, arrest, torture and execution of purported criminals and suspected Mungiki members who were then dumped in various locations that included forests, desolate farms, rivers and dams. The most notable ones include the killing of Kimani Ruo who was arrested outside Nairobi Law Courts in June 2007 moments after he was acquitted by the court on charges of being a member of Mungiki. Others are the killing of the wife and driver of the jailed Mungiki leader, Maina Njenga and two key Mungiki leaders, Ndung'u Wagacha (Acting Chairman) and Naftali Irungu (National Treasurer).
35. The KNCHR had as part of further supporting documentation video taped the evidence<sup>7</sup> of the police whistle blower implicating the police leadership not only with knowledge but actually sanctioning numerous incidents of illegal detentions, extortion, torture and cold-blooded murder of suspected criminals and those alleged to be Mungiki members.
36. Having availed this information to the KNCHR, the whistle-blower informed the KNCHR that he was fearful of his security as the information he provided was quite sensitive. The KNCHR working together with other partners such as the Independent Medical-Legal Unit placed him on a witness protection program both within Kenya and in a neighboring country.

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<sup>6</sup> Ibid 3

<sup>7</sup> Audio-visual record of the whistle-blower giving evidence to the KNCHR on 31/7/2008.

37. On 16/10/2008, the KNCHR received reports of the fatal shooting of the whistle-blower a few meters outside his safe house. Eyewitness reports indicate that the whistle-blower had left the safe house at around 11.00am and was seen walking towards Sarit Centre following Karuna road. After about an hour, the eyewitnesses heard gunshots and found that the deceased had been shot in the head and was lying on the ground.
38. Prior to his death, the deceased interviewee had on several occasions raised concerns over his security, stating that he had been threatened by specific police officers and that he suspected that his mobile phone was being tapped.
39. The KNCHR has reason to strongly suspect that the police may have been behind the execution of the whistle-blower, as he had sensitive evidence incriminating the police.

### **The Malindi five executions**

40. The KNCHR on its own initiative, investigated a matter that was exposed in the media over the illegal executions of five persons who included a woman in Malindi in the Coast province on 12th November 2007. The following day, outraged members of the public went to the streets to protest the killings and demanded an explanation from the Police over the same.
41. The KNCHR's Complaints and Investigations program conducted preliminary and field investigations in Malindi. Eyewitnesses to the shooting were interviewed and meetings were held with the police in Malindi. From the investigations conducted on the ground, the KNCHR made the following observations:
42. That the following people were fatally shot by the police on 12th November 2007. They are:

Ramah Amin Ibrahim	18 years	carpenter
Jackline Akinyi Nagilah	27 years	house help
Ibrahim Daudi Charo	30 years	carpenter
Hussein Mohammed	33 years	carpenter
Robert Gathongo Kariuki	age unknown	Rickshaw driver

43. The five were on board a rickshaw and were headed towards Kisumu ndogo estate. Police officers in plain clothes driving in a personal Toyota Corolla motor vehicle stopped the occupants of the rickshaw and ordered them to alight and surrender.
44. That the five alighted and were seen lying on the ground. The police officers searched their pockets and removed their wallets and mobile phones.
45. That immediately thereafter, the police officers started shooting the five at close range. Post-mortem results revealed that the deceased persons sustained the following injuries which led to their demise:

Ramah- 7 gunshot wounds

Jackline - 12 gunshot wounds

Ibrahim- 6 gunshot wounds

Hussein - 3 gunshot wounds

Kariuki - 8 gunshot wounds

46. It was further revealed that the police officers involved in the shooting had come from police headquarters in Nairobi. The said police officers recorded their statements with the police stating that the five deceased were armed robbers who had been challenged to stop but the five instead opened fire, forcing the police to shoot them all dead.
47. It is worth noting that all the police officers involved in this shooting have been adversely mentioned in the Commission's report on Extra-judicial killings and disappearances.
48. An inquest file was opened by the police with respect to the matter. However, the families of the deceased raised concerns with the KNCHR indicating that the police have declined to bond the eyewitnesses to the shooting.
49. The KNCHR had therefore to intervene in the matter and ensure that the eyewitnesses were bonded as witnesses. Concerns over the security of the eyewitnesses were also raised with the local police as the said eyewitnesses had reported incidents of threats and intimidation by the police officers involved in the shooting.

### **The Majengo executions**

50. In January 28th 2009, the KNCHR received a petition from the families of Abdalla Juma and Hassan Asman Wambua (herein after referred to as the 'two deceased').
51. Statements recorded by the said families at the KNCHR indicate that the two deceased were at their place of work in Gikomba in Majengo/ Pumwani estate. That the two, being touts, were waiting to board passengers in their public transport vehicle.
52. That at about 10.00am, two Administration police officers attached to the Pumwani Chief's camp namely AP Kimunya and Ogusu, were seen arguing with the two deceased.
53. The two deceased were then arrested and were seen walking towards the Chief's camp. That after about five minutes, eyewitnesses heard gunshots and saw the two deceased lying on the ground in a pool of blood. The two deceased were reported to have suffered numerous gun shot wounds on their faces.
54. The witnesses further stated that the said Administration Police officers Kimunya, Ogusu and together with one Ali are notorious in their area, and that the three have shot dead at least seven people in January 2009.
55. The KNCHR has launched preliminary investigations into the matter. Post-mortem report on the body of Abdalla Juma reveals the cause of death as gun shot wounds.

### **Habeas Corpus applications**

56. Following a report of the disappearances of John Mwangi Kiruthi and Allan Kamau Ndichu, the KNCHR's filed Habeas Corpus applications at the High Court in Nairobi with respect to petitions lodged by one Janet Wanjiku on behalf of Allan Kamau, (No. 749 of 2007) and by one Ann Nungari on behalf of one John Mwangi Kiruthi (No. 750 of 2007).
57. The two matters were certified as urgent on 25/10/2007 and the KNCHR filed an amended chamber summons application dated 29/2/2008. The evidence before the Court was lodged in form of affidavits; but the KNCHR's counsel requested the court that viva voce (oral) evidence be taken from certain key persons in the whole scenario, as a basis for determining whether or not a writ of Habeas corpus is to issue. This was highly contested by Counsel for the State.
58. In a ruling dated 24/11/2008, the judge ordered in favour of the KNCHR by stating that the applicant's application shall be determined on the basis of Viva voce evidence. Further, the Court ordered that the final ruling of the court shall be made on the basis of such viva voce evidence and of the documentation on file and the submissions of counsel.
59. The Commission will therefore present its eyewitnesses before the court to adduce evidence when the matter comes up for hearing. These cases are particularly important to the KNCHR because if the Habeas Corpus orders are finally issued against the State agents, the same will be a break-through in the quest for justice with regard to the systemic violations and atrocities committed by the State agents on civilians.

### **The evidence obtained by the KNCHR**

60. The following is the documentation that the KNCHR was able to obtain while conducting its investigations on extra-judicial killings, disappearances and extortions perpetrated by the Kenya Police:
- The TV clip featuring the then Minister for Foreign Affairs Hon Raphael Tuju, during the "*Louis Otieno Live*" program on Citizen TV (refer to paragraph 23 above).
  - The audio-visual record of the deceased whistle-blower, Bernard Kiriinya recorded on 31st July 2008 (refer to paragraphs 35).
  - Statements from petitioners received at the KNCHR reporting incidents of deaths, disappearances and extortion by the police.
  - Photographs of victims of extra-judicial killings and disappearances as availed to the KNCHR by their families.
  - 34 post-mortem reports of victims of extra-judicial killings.

## **D. THE MOUNT ELGON CRISIS AND AFTERMATH**

### **BACKGROUND**

61. Mt Elgon district, in Western province is located in the south eastern slopes of Mt. Elgon and covers an area of about 944 sq. kms with a population of about 135,0337.<sup>8</sup> The district is divided into four administrative divisions of Cheptais, Kapsakwony, Kaptama and Kopsiro divisions. Its headquarters is in Kapsakwony town.
62. The area is predominantly occupied by the Sabaot, Iteso and Bukusu communities. The Sabaot community is further divided into two main groups; the Soy and the Mosop although they speak the same language and lead a similar way of life.
63. The district has been a theater of cyclic land conflicts that date back to the colonial period. The area was a major hotspot during the politically instigated violence during the 1992 general elections pitting supporters of Kanu (the then ruling party) and the opposition. The Bukusu were then mainly in opposition.
64. A fresh wave of violence erupted in mid 2006 but this time involving the Soy and the Mosop over the controversial Chebyuk settlement scheme. The land in contention is located in Chebyuk settlement scheme which covers approximately 21,000 acres.<sup>9</sup>
65. KNCHR conducted several fact finding missions in the area with a view to understanding the causes of the conflict and exploring ways and means of building a solution to the crisis. In this regard, the KNCHR found the following;
66. The settlement scheme was necessitated by the fact that local residents were alienated from their land by the British colonialists pushing them to the forest fringes in Chepkitale and Chebyuk. After independence, the problem was not remedied. Instead, the government compounded the problem by gazetting Chepkitale into a game reserve. Consequently, the people of Chepkitale moved to Chebyuk worsening an already bad situation owing to the growing population pressure. Following grievances by the community, the government in 1971 set aside a settlement scheme in Chebyuk which was still forest land where 109 families were resettled. However the scheme was never degazetted. In 1979, formalization of the scheme was proposed but the initial number of families had increased to over 2000. Controversy erupted and the process was halted. Several other attempts at resettlement and finalization were carried out. In 1989, the government tried to conclude the resettlement but the process was replete with political interference, nepotism and corruption that led into a stoppage owing to the ensuing controversy. Applicants however held onto their ballot papers and allocation letters.
67. Another attempt to resettle residents was made in 1990, but was also soon abandoned due to the politically instigated clashes of the year 1992 that engulfed most parts of the Rift

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<sup>8</sup> Kenyan Districts statistics

<sup>9</sup> Interview with District Commissioner Mt. Elgon region

Valley. This led to an influx of people into the settlement scheme, most of whom were not original inhabitants of the area. There was also another attempt at addressing the issue in 1997 but this was also abandoned due to many militating factors among them corruption and politics.

68. By 2002, allocation of land in the settlement scheme had not been completed. With the impending General Election, the politicians (from both Soy and Mosop clans) capitalized on the land issue to endear themselves to the electorate with promises of resolving the issue. The Soy being the majority demanded a lion's share in the allocation of the plots in the scheme. Beginning 2003, another attempt was made at resolving the issue but problems emerged in phase three following allegations of favoritism, exclusion and political interference.
69. At this point, those dissatisfied with the failed processes are said to have resolved to mount an armed struggle in furtherance of their demands for land. With the support of politicians and local elites, the Saboot Land Defence Force (SLDF) was formed. This marked the beginning of an orgy of violence that has left a trail of ghastly terror.

## **INVESTIGATIONS CONDUCTED AND FINDINGS**

70. In April/ May 2008, the KNCHR commissioned investigations in Mount Elgon to determine the veracity of allegations of human rights abuses perpetrated by security forces against residents of Mount Elgon area.
71. The activities of the SLDF, the Commission found, resulted in the deaths of more than 600 people, the multiple decapitation of several others, mutilation, rape, extortion, looting and destruction of property. Thousands of civilians were displaced from their homes. The residents were living in constant fear of killings and harassment by members of the group but unable to report the violations to the police for fear of reprisals from the militia. Other militia groups were formed to counter the SLDF among them the Political Revenge Movement and the Mooreland Defence Force. Several incidents of fighting were reported amongst the militias that claimed an unknown number of lives.
72. The existence of the several militia outfits in the region compounded the security situation in the area. Government security forces (the police and the military) were deployed to the area to contain the SLDF insurgency. The police were accused by residents of atrocities similar to the SLDF among them torture, extrajudicial killings, rape, burning of houses and extortion. The residents of Mt. Elgon thus suffered double tragedy leading to a massive exodus of civilian population.
73. The army which was called in to buttress the police, due to the deteriorating security situation, did not escape allegations of human rights violations. The Army's operation was characterized by gross abuses including abductions, extra-judicial killings, rape, torture, looting and burning of property. Interviewee accounts indicated that virtually all the men and boys from the ages of 10 were rounded up and taken to military bases in Kaptama and Kapkota where they were taken through a vile screening procedure where many died and others were maimed.

74. Residents of Mt. Elgon, who initially welcomed the military operation, complained to the KNCHR that the military had turned against them in a manner most brutal and no different to the acts perpetrated by the SLDF and other militias. The KNCHR interviewed several women whose husbands and sons reportedly disappeared after being taken in for “screening” and interrogation at the commencement of the military operation.
75. It was impossible to ascertain the exact number of people killed, who disappeared or who were tortured during the military operation given that that military sealed the entire operation area and denied access to independent investigators including the KNCHR. However, residents who spoke to the Commission estimated that the numbers could be in the thousands.
76. In June 2008, a newspaper report quoted the military spokesperson saying that the operation had netted 3779 suspects. The KNCHR received reports that most of those who died during the interrogation by the military were secretly buried by them in various spots in the mountain. However, others were taken to mortuaries such as Bungoma. During a visit to the mortuary, KNCHR witnessed twenty bodies that were reportedly brought in by the police and marked as unidentified. Most of the bodies had classic signs of torture.
77. The KNCHR also visited Bungoma prison where 471 suspects were being remanded after being charged with various offences that included murder. All the suspects had undergone torture at various interrogation stages by the military and bore multiple injuries all over their bodies. The KNCHR further held detailed interviews with twenty three survivors who had been released after the screening ordeal by the army. The KNCHR engaged a doctor who conducted a detailed medical examination of the survivors. The medical reports are available.

## **E. POST ELECTION VIOLENCE AND EXTRA JUDICIAL KILLINGS**

### **INTRODUCTION**

78. Following the outbreak of violence in the period immediately following elections in the year 2007, the Kenya National Commission on Human Rights began receiving complaints of human rights violations allegedly being perpetrated by civilians and public officers (such as the police). Informed by its mandate to protect and promote human rights of all individuals in Kenya, the Commission undertook investigations on the character and scope of the human rights violations that occurred between December 2007 and February 2008.
79. The aim of the investigations was to document the post election violence to ensure that there was an official record of violations committed for purposes of redress. The specific aims of the investigations were (i) to assess violation of international human rights obligations and obligations of various state and non-state actors whose acts/ omissions contributed to the violence, (ii) to analyze criminal responsibility of alleged perpetrators in terms of international law as well as local law (domestic criminal law) in order to enable the Commission make recommendations on action that should be taken against perpetrators, (iii) to make general recommendations on governance that would ensure an effective truth, justice and reconciliation process.
80. Teams of trained investigators were deployed to collect data from identified regions in the country. These regions were the focal points of the violence and included; Nairobi, South Rift Region, North Rift Region, Central Rift Region, Nyanza Region, Western Region, Coast, Central.
- Between February and June 2008, 36 investigation missions in 136 constituencies in Kenya and Uganda were undertaken.
  - 1,102 statements were gathered from individuals recounting over 7,500 episodes of violence.
  - The information gathered by the Commission was complemented by information from secondary sources such as media reports, reports of organizations involved in assisting victims and reports of other organizations investigating the violence, among other secondary sources.
  - The Commission emphasized on semi-structured interviews when gathering statements.
  - Key informants were also interviewed.

### **FINDINGS**

81. The Commission found that the post election violence was triggered and fuelled by several factors including historical injustices and land grievances, ethnic politics, long history of violence and impunity, constitutional issues, lack of confidence in the judiciary, among others.

82. The Commission's finding with regard to the nature of violations was that scores of people were killed in the ensuing violence. The perpetrators were civilians as well as state agents (primarily composed of the regular and administrative police). Over 350,000 civilians were displaced from their homes due to massive evictions targeting individuals who purportedly did not originate from certain areas. Gender based violence was witnessed in the informal settlements of Nairobi as well as in the IDP camps. The offences were mainly opportunistic and targeted vulnerable women who had been separated from their husbands. The attacks in the informal settlement areas, the Commission found, were ethnically motivated.
83. This report shall restrict itself to the findings and recommendations the Commission made with regard to arbitrary killings that were perpetrated during the post election violence period by security forces as well civilian militia groups.

#### **a) Killings by security forces**

84. Regular and Administrative police were deployed to the various epicenters of the violence to quell the same. The response of the security forces to the violence varied from region to region.
85. In **Nyanza** Province, the Commission found that security agents (regular police and members of the Rapid Deployment Unit of the Administrative Police) were guilty of inaction and/ or application of excessive force against residents in an apparent bid to quell the violence. Violence in the region began on 28th December 2007. Between 28<sup>th</sup> and 29th December 2007, the police exercised restraint when dealing with protesters by shooting in the air to warn, using rubber bullets as well as lobbing teargas canisters into crowds of protesters to disperse them. This restraint however fizzled out when the Provincial Security Committee<sup>10</sup>, under the chairmanship of the Provincial Commissioner Mr. Paul Olando, met on 30th December 2007 and sanctioned the use of force against protesters.
86. On 30th December 2007 and subsequently during the second and third waves of violence in the region<sup>11</sup>, the police applied excessive force and shot into the crowds killing scores of people. About 100 people are estimated to have died in the region.<sup>12</sup> Most of the victims bore

<sup>10</sup> Members of the Committee include the Provincial Commissioner (PC), the Provincial Police Officer (PPO), the Regional Coordinator of the National Security Intelligence Services (NSIS) and the Provincial Criminal Investigations Officer (PCIO)

<sup>11</sup> 10 The first wave of violence began on 28th December 2007 and was largely due to the delay in announcement of the results of the Presidential Elections. This particular wave of violence lasted between 29th December 2007 and 10th January 2008. The second phase of violence lasted between 15th and 17<sup>th</sup> January and was linked to the mass protests which had been called by the Orange Democratic Movement Party (ODM) and which had been declared illegal by the police. The final wave of violence, towards the end of January 2008, was informed by external factors including the fatal shooting of newly elected ODM Members of Parliament, Messrs. Mugabe Were (Embakasi) and David Kimutai (Ainamoi).

<sup>12</sup> 11 Reports from the Nyanza Provincial General Hospital indicated that between 29th December 2007 and 8<sup>th</sup> January 2008, about 52 people had died as a result of gunshot wounds. The Provincial Medical Officer of Health Dr. Jackson Kioko, giving evidence before the Commission of Inquiry into Post Election Violence (CIPEV/ Waki Commission), and indicated that 90% of the deaths in New Nyanza General Hospital were from gunshot wounds.

gunshot wounds to their backs and appeared to have been fleeing from the police. Many victims were shot while at their residential areas which included Manyatta, Obunga, Kondele and Nyalenda. Other affected areas included Bandani, Migori Towna and Homabay.

87. The **Rift Valley** Province was hardest hit by the violence. Violence was witnessed in the South, Central and North Rift regions of the province. In the South Rift, deaths in the hands of the police were reported in Kericho, Bureti and Londiani. In the North Rift, police-related deaths were reported in Langas and Cherangany areas. Finally in the Central Rift, police related deaths were reported in Naivasha and Nakuru towns.
88. In terms of redress, very few cases have been instituted against officers with regard to whom evidence was collated on the issue of their criminal culpability. Currently, only one matter is pending in court in which a police officer has been charged with the murder of a civilian protester in Kisumu - Kondele. The officer was caught on camera shooting at a protester whose crime was making funny faces at the riot police.

#### **b) Killings by militia groups**

89. In **Nairobi**, the Commission found that police were deployed to the informal settlement schemes with one agenda, to contain the violence therein and prevent a spillover of the same into the city center. The mass action that was called by the ODM was declared illegal and subsequently attempts by city residents to demonstrate within city streets was quashed by police who applied excessive force to prevent such forays. Unfortunately, the security personnel did not offer security to residents thereby exposing them to violence meted out by militia groups.
90. Militia activities were reported in the informal settlement areas of Mathare, Dandora, Kibera and others. Scores of people were killed by the said militia groups who were using as their arsenal clubs, machetes, stones and other crude weapons. Reports accessed by the KNCHR indicated that about 50 people were killed in Kibera alone on the day the election results were announced (International Crisis Group Report). The KNCHR found that the police were unable to protect innocent victims from the violent acts of the militia exposing scores to death.
91. Militias were also responsible for the deaths of hundreds of persons in Naivasha and Nakuru area. KNCHR found that the attacks in those regions by the militia were retaliatory. Evidence in the hands of the Commission suggests that police were complicit to the actions of the militia and did not attempt to protect innocent civilians.

### **F. CONCLUSIONS AND RECOMMENDATIONS**

92. From the foregoing, KNCHR has reached the conclusion that the Police are engaged in a systematic operation of extrajudicial executions of regular criminals, suspected members of illegal gangs and those exercising their constitutional right to peacefully assemble and demonstrate. KNCHR also has evidence of the complicity of the Police High Command as well as senior politicians responsible for the security docket. KNCHR therefore makes the following key recommendations:

93. A formal inquiry be instituted into the role of the State agents implicated with regard to the regime of apparent torture, disappearances and extra-judicial executions. The prohibition against torture and other cruel, inhumane and degrading treatment is nonderogable, and the Government must act to stop the torture and killing of suspects allegedly involved in violent criminal activities, and hold perpetrators to account.
94. All the crimes allegedly committed by members of the Police Force as highlighted in this brief should be investigated by a special team of investigators and prosecuted by a special prosecutor appointed for that purpose.
95. Parliament should urgently review all legislation touching on the Kenya Police and other security sector agencies to ensure that they are guided by law and their actions do not trample underfoot civil liberties in the name of maintaining law and order. Parliament should further urgently legislate the Organized Crimes Bill which will form the framework for fighting organized criminal gangs and reduce the opportunity for extortion and rent-seeking by the police.
96. Since its establishment in 2003, KNCHR has campaigned for the establishment of a Civilian Police Oversight Body to oversee the police and investigate complaints. On 4th September 2008, through Gazette Notice Number 8144 of that date, The Minister of State for Internal Security and Provincial Administration set up a Police Oversight Board. The said board however has critical weaknesses in that it lacks a statutory mandate and formal and operation independence since its secretariat is headed by serving police officers and it reports to the Minister instead of Parliament. KNCHR therefore recommends that a proper Civilian Oversight Board which is anchored in an Act of Parliament and with powers to investigate complaints against the police and take disciplinary action be established forthwith.
97. Internal investigative and disciplinary mechanisms within the police force should be strengthened in order to restore the confidence of citizens in the force. The Police Commissioner should be required to table annually in parliament a report of the complaints received from the public and how they were dealt with. Citizens not satisfied with the internal complaints mechanisms should then bring their complaints before the Civilian Oversight Board.
98. In the past, the police have ignored other constitutional and statutory institutions that have an oversight remit by dismissing them offhand or contemptuously failing to honour lawful summons to proceedings where their conduct is under inquiry. This is often the case with the KNCHR whose mandate includes investigating human rights violations by the police. The oversight role of Parliament, the Judiciary and KNCHR should therefore be strengthened and the police should be required to give these bodies the necessary cooperation. In particular, the Attorney General should be quick to prosecute any police officer who ignores or fails to honour lawful summons by any statutory body issued pursuant to its mandate.

99. The police should develop and publish a policy on the use of various forms of force and disseminate it to all officers, stations and divisions as well as to the general public. Such a policy should be vigorously enforced in all circumstances.
100. The police force should be insulated from political interference through a constitutional amendment giving security of tenure to the Commissioner of Police and making his/her appointment subject to confirmation by Parliament.
101. A Police Service Commission should be established to monitor the terms of service of the police and ensure that police officers do not use their meager salaries as an excuse to abuse their office through extortion schemes that have been associated with extra-judicial executions.

## Appendix

NAME: Bernard Kiriinya  
GENDER: Male  
OCCUPATION: Police Officer  
AGE: 43 Years  
NATIONALITY: Kenyan  
ADDRESS: Ruin Location. Box 2366, Meru. Or Box 30036 Nairobi.  
LANGUAGE: English  
I.D NUMBER: 8857268  
PROVINCE: Eastern  
DISTRICT: Meru Central  
DIVISION: Buuri  
LOCATION: Ruiru Village -Riachu  
SUB-LOCATION: Tigiji  
CHIEF: Jacob Magan Ikinyua  
NEAREST POLICE STATION: Tutua Police Station.

I am the above mentioned police constable attached to Special Crime Investigation Unit at CID headquarters Nairobi, Kenya.

I wish to state that, I joined Kenya Police on the 23<sup>rd</sup> March 1986 as a recruit constable .On passing out; I was posted to Miwani Police Station in Kisumu in Nyanza Province. In 1990, I was transferred to Keroka Police Station in Kisii district. Thereafter, I was transferred to Lang'ata police station in 1995. In 1996, I attended a three months driving course at Kenya Police Driving School. I completed the course in January 1997. I assumed driving duties at Lang'ata Police Station, general duties section until 1998 when I was attached to Divisional CID Lang'ata to perform driving duties in CID Department.

In 1999, I was transferred to Provincial CID Headquarters Nairobi area whereby I was the official driver to PCIO Nairobi area for two years. During my tenure, I drove Zebedio Onguti and Mr. Mutunga, all former senior assistant commissioners of police.

When Peter Kavila assumed duties as the new PCIO, I was attached to scenes of crime section under PCIO's office. I worked there for one year and I was then transferred to CID headquarters operations section in 2002 to 2003. Thereafter I was transferred back to PCIO's office Nairobi area General Investigations. I remained there until the year 2005 when I was transferred to special crime unit headed by Musa Yego. He was replaced by Reche Nyaga and I became his official driver. He was replaced by Mr. Richard Katola after the Standard Newspaper raid in 2006. I remained with him as his official driver for almost 3 months. I was then deployed to drive a patrol vehicle a land Rover KAK 744F. My car commander was corporal Njoroge.

I remained there up to February, 2007, when we were assigned strict duties to track down one of the most wanted criminals known as Matheri and his accomplices. We tracked him down up to 20th of February 2007. What happened after we caught up with him is as follows:

That on the 19th day of February 2007, at about 7.00pm we met with Chief Inspector, KANU the then OCIO Kikuyu at Mlolongo along Mombasa road. He was in company of an informer who assured us that he had ensured that the suspect Matheri had gotten into his house in Athi River. By this time I was in company of CPL Maina, CPL Njoroge, PC Kimanga, PC Ndegwa, PC Muchoma, PC Kadeche, PC D. Odiek, PC Mbogo, PC Mohammed, PC Maritim, PC Owino and others.

Meanwhile, CPL Maina called the PPO Nairobi area .Mr. Njagi Njue and asked for reinforcement of uniformed police officers to seal off the compound of the suspect. They came in three Lorries and they were all deployed by CPL Maina and CPL Njoroge. The PPO Mr. Njagi Njue had given firm instructions that he wanted to find the suspect dead.

I parked the official car I was driving a Mitsubishi Gallant along the main road to avoid overcrowding his compound with vehicles. This was about 1.00 am in the morning of 20 February 2007. All the drivers remained with me as CPL Maina and CPL Njoroge led other officers to the compound. We followed after ten minutes and found them knocking at the door of Matheri's house. He used to live in a two storey building which was secured with a mabati fence.

On hearing the knock at the door, Matheri appeared from the main door and visualized that the compound was fully sealed by the police. He decided to use the back door but unfortunately he found a contingent of police officers waiting for him. He was advised by his wife not to try to hide to avoid being shot dead. He heeded to his wife's advice and opened the front door while raising his hands as a sign of surrender. Immediately he was grabbed by CPL Maina and CPL Njoroge. They also grabbed his unknown accomplice who was in his company. Officers were ordered to ensure that Matheri's wife did not escape too.

A thorough search was conducted in and outside of his house but nothing was found. By this time Matheri had been ordered to lie down on the floor of his front verandah together with his accomplice. CPL Maina called the PPO through his cell phone while CPL Njoroge called Mr. Richard Katola on the other side. While the two were talking to their respective bosses they called Matheri by his name loudly to confirm to these bosses that indeed they had arrested him. They called him "Matheri" and he answered "yes I am Matheri". The PPO instructed CPL Maina that he wanted to hear the first shot on the other hand CPL Njoroge was instructed by Katola that he also *wanted* to hear the first shot, Matheri was shot by CPL Maina while his accomplice was shot by CPL Njoroge. The two used CESKA pistols to kill them. I can confirm that CPL Maina shot Matheri on the back of his head as he was lying on his stomach with his face facing down. The accomplice was also shot on the same spot. Thereafter, the other police officers at the scene followed suit. They sprayed the two bodies with bullets. Due to the fact that they did not find any firearm from him or his accomplice, they sought advice from the PPO. They were instructed to stage manage the scene by placing one of the police official AK 47 riffle besides Matheri's body. Matheri's body was dressed in shorts while the accomplice was also dressed in the same. Other CID officers at the scene were ordered by CPL Njoroge and CPL Maina to shoot in the air to stage manage the scene so that it will look as if there was a serious exchange of fire between the suspects and the police.

The PPO Nairobi Area Mr. Njagi Njue was called to the scene and he came in company of Mr. Katola the o/c Special Crime Unit. They came at around 5.00 am and were immediately followed

by members of the fourth estate- the media. The PPO briefly briefed them at the scene and asked them to meet him in his office later. The rifle which was planted on Matheri and the deceased unknown accomplice was actually CPL Maina's official rifle. In order to maintain complete secrecy under which the rifle was found near the bodies of the deceased persons and to avoid any suspicion, he allowed the bodies and the purported rifle exhibit to be collected by IP Kisagani of Athi River police station. We later went to the station and retrieved the firearm after the stage-managing of the scene exercise.

We went to PPO's at about 9.00 am. We found him in a meeting. We waited up to 11.00 am when he called us in. He appeared very happy. He showered us with praises for what he described as "elevating him to a position of a king by the act of killing Matheri the most wanted criminal in the country" as it were by then. He said that he was now a true hero in the eyes of Kenyans compared to other PPO's in the country. All the non commissioned officers (NCOs) in our squad were given Kshs.15,000 each and the constables were given Kshs 10,000 each as a sign of appreciation for "kazi mzuri" as Police officers generally call it. He told us that the Commissioner of Police Major General Hussein Mohammed Ali had sent his compliments for "kazi mzuri" and that he was to reward us all. The next day we went back to our offices except CPL Maina's group. We were given by the OC Special Unit Mr. Richard Katola Kshs.2,000 each.

After almost three weeks CPL. Maina was promoted to the rank of Inspector of police and PC Mohammed was promoted to the rank of Corporal of police. We were told that the commissioner of police could not promote everyone at a go but would do so in bits.

The second execution took place sometimes in the year 2007 when one purported Mungiki follower known as Kibe was arrested at Kariobangi Light Industries round about. He was arrested by the CPL Maina (then), CPL Njoroge, PC Mbogo, PC Ndagwa, PC Mohammed, PC Kadache, PC Kimanga, PC Maritm, PC Owino, PC D.Odiek and others. He was taken to Buruburu police station but was not detained in cells. He was interrogated inside one of the police vehicles and ordered to fetch some bribe for the arresting officers. He mobilized his relatives to raise money quickly. They managed to raise Kshs.50,000 which was brought to him. He gave it to the aforesaid police officers who then released him. Upon being released to go home, he drove off in his Surf type of a vehicle towards Outer ring road. Hardly did he know that one of the arresting officers PC. Ndegwa had been instructed to waylay him along Outerring road. It was planned in such a way that the relatives won't suspect these police officers who had previously arrested him. Their argument was that as long as they saw him give bribe and subsequently being released, there is no way these relatives would suspect them to re-arrest him. The two constables, PC Ndegwa and PC Maritim stopped him along outerring road and boarded his vehicle. He was instructed to follow the Outerring road towards North Airport road. Eventually they joined Mombasa road and diverted at Athi River junction and followed Namanga road. We followed in a convoy of four vehicles full of police officers. We drove past Kajiado and at some point we diverted to the forest. The suspect Kibe was strangled by use of a rope by the team of police officers aforementioned i.e. CPL Maina, CPL Njoroge and others. They also used pangas and runkus to maim and disable him. After he succumbed to death his body which had the rope on the neck was tied to his vehicle and dragged for some distance (about 100 meters). It was then untied and abandoned on the roadside along Namanga road. His vehicle was driven towards Tanzania by CPL Maina to be disposed off but at some point it ran

out of fuel. He left the vehicle alongside the road with its ignition keys inside. We picked up Cpl. Maina and proceeded back to Nairobi.

On reporting back to Mr. Katola we were told to continue looking for other purported Mungiki leaders. The same sentiments were echoed by the PPO Mr. Njagi Njue.

The third execution was just after the purported attack at the home of the former minister for internal security and provincial administration Hon. John Michuki at Kangema. We were told by the Commissioner of police Major General Mohammed Hussein Ali that the police must be seen to be doing something as a reaction to the attacks. Our team was immediately ordered to go to Dandora and arrest some suspects. We went and arrested some four suspects. They were transported up to Kangema while locked in the car boot. On arrival they were ordered out of the cars and immediately ordered to lie down on their stomachs. When the executions started one of them managed to escape with bullet injuries. The other three were killed on the spot. They were shot from the back while lying on their stomachs. While executing the three suspects, a misadventure occurred whereby the executioners killed one of their colleagues by the name PC. Kyalo who was on transfer to Muranga. The officer had hiked a lift to Muranga where he had been transferred from Lang'ata police station. I suspect that he was intentionally shot dead to silence him in order to conceal the executions. Remember that the deceased was not a member of the execution team and they suspected that he might spill the beans about the executions he witnessed.

The fourth execution took place on the 21<sup>st</sup> day of June 2007. I was called around 7.00 am by CPL Njoroge my car commander to pick him within Ngara area. He was in company of PC Kimanga and PC Muchoma. After picking them, CPL Maina told me that we had a very important/special assignment given by the Commissioner of police Major General Mohammed Hussein Ali at Nairobi Law Courts. The instructions had been passed to us through the director of CID Mr. Simon Karanja Gatiba through Mr. Sammy Githui the Director of Operations CID Headquarters via Mr. Richard Katola o/c Special Unit Squad. He told us that Mr. Katola had instructed us to go to Nairobi Law Courts where we would find him in company of other officers. I drove through the back door mainly used as the entry door for the prisoners being brought to court. This is the door facing the KICC building and Jogoo House. We found Mr. Katola waiting there while in company of another vehicle from our office under the command of CPL Bunusu. During the briefing, he told us that we were a contingent of officers from different units i.e. Central Division Nairobi CID Team, Flying Squad and officers from PCIO's office headed by deputy PCIO Nairobi Area Mr. Limo. We were then told that our assignment was to arrest one Mr. Kimani Ruo who was a purported Mungiki sect leader scheduled to be released by the court later that day. The suspect had been facing charges jointly with Mungiki leader Mr. Maina Njenga currently serving a jail term in Naivasha Prison.

We were told to effect the arrest secretly and ensure that nobody got to know about it. It was made clear that even if the suspect was arrested by any other officer or officers at the scene, they must hand him over to us. We were told that after the arrest, our vehicle was to transport him to a destination to be communicated later. The team under CPL Bunusu was assigned the duty of escorting us. Meanwhile, after some time I was told to go and park my vehicle opposite City Hall while facing the High Court main gate. I was under strict instructions not to leave the vehicle until advised otherwise. The vehicle with CPL. Bunusu was also parked there. At around

11.00 am, CPL. Njoroge called me on my mobile phone. He told me that our grand plan seemed to have aborted at some point and he sounded disappointed. He walked to where I was parked and indeed he appeared demoralized. However he assured me that he will try his best and ensure that we had managed to arrest Ruo Kimani at any cost. He walked back and at around 12.30 pm he called me again on my mobile phone. He then told me to drive very first and I will find him walking towards Kencom bus stage. I drove almost 500 meters towards the said direction and found him standing with three other people opposite International Life House (Kirubi's Building opposite Hilton Hotel). I made a U-Turn and stopped where they were. I met him with Mr. Katola, unknown police officers and a man I later came to know as Ruo Kimani. At this juncture, CPL Njoroge ordered Ruo Kimani to get into my vehicle while he was standing talking to Mr. Katola. After a while, CPL Njoroge bonded the vehicle sat in front with me (co- driver's seat. The suspect was sandwiched between PC Kimanga and the other police officer. At this, point PC Muchoma was left at the scene with instructions to board a matatu and find us at the Old Nairobi Area Police Headquarters. On arrival I parked my vehicle under a tree near the former firearms beaural offices where there was nobody. The instructions were that Ruo Kimani was not to make any calls or even step out of that car. In fact I was told that the tinted windows of my car were to remain rolled up permanently. The mobile phone of the suspect was confiscated by CPL Njoroge to immobilize him completely.

Upon confiscation of the phone CPL Njoroge stepped out of the car and went to consult with Mr. Katola in his office. He came back after thirty minutes and told us that Mr. Katola had consulted the necessary authorities i.e. Mr. Sammy Githui, Mr. Gatiba and the Commissioner of Police Major General Ali as the chain of command in the police dictates. That he informed them that the suspect is now in our custody. Apparently CPL Njoroge called IP. Maina and asked him to come and assist him to carry out a special assignment. After almost two minute Inspector Maina arrived in company of two vehicles full of officers. On coming we followed one another in a convoy of four vehicles up to Bulbul past Karen shopping centre. We diverted and joined a tarmarcked road leading to Ngong Forest. After about two kilometers we got into the forest on the left hand side. On reaching our destination that's when I discovered that Inspector Maina's vehicle had two more purported Mungiki suspects in the boots. They were ordered out and I realized that their hands were tied behind.

Upon arrival in the bush, thorough interrogations were done by means of beating the suspects with clubs and kicking them. The main suspect Kimani Ruo was being asked who he was in the Mungiki hierarchy. By this time inspector Maina was in fact recording all the activities with a small tape recorder. The other two suspects were being questioned about who was their boss in Dandora. This is the time I realized that they had been arrested in Dandora. They confessed that they used to collect money for their bosses from plot or land buyers in that area. At around 2.30 pm Inspector Maina sent us to go and bring roasted meat for lunch from his butchery within bulbul shopping centre. After lunch they went on with interrogations. The suspects were not served food at all but were given water upon making a request. The beatings were severe to the extent that Ruo Kimani fainted at some point. They administered first aid on him and he got well again. Ruo Kimani confessed that he was the spiritual leader of the sect and he participated fully in initializing and baptizing new Mungiki recruits in Nyahururu area. However he intimated that at some point he ceased from being a member of the sect and started a business in Nakuru town.

At around 4.30 pm Inspector Maina called the PPO Mr. Njagi Njue and re-played the cassette to him. Upon listening Mr. Njue laughed on phone saying “kazi iendelee namna hiyo”. On the other hand CPL Njoroge called Mr. Katola and told him that Kimani Ruo had confessed fully to being one of the leaders of the Mungiki sect. We were told by the two of them to wait at the scene for further instructions from the Commissioner of Police. We sat there up to around 6.30 pm when IP Maina said we go to the PPO’s office. On arrival, IP Maina and CPL Njoroge went to consult with the PPO. On coming back they said that the PPO had given some money for supper and that some officers must remain behind to guard the suspects. He appointed CPL Mohammed to be the team leader of those who were to remain behind. They were assigned one vehicle. The trick was to hold on and see whether there would be any outcry as a result of the arrest either in both the print and electronic media. They were also worried that some Human rights groups might start searching for Ruo Kimani. They were instructed to remain there throughout the night and vacate there at around 5.00 am the following day in order to ensure that the suspects were not seen by other police officers reporting on duty. The following day after picking up CPL Njoroge and other crews, we went to Nairobi Area PPO’s office and found them gone. We got there at around 5.30am. Meanwhile, CPL Njoroge called IP Maina to inquire where they were. He was told we proceed to Buruburu police canteen. On arrival we did not find him there. On calling him again he said that we find him at Shauri Moyo police station. We found him there with two vehicles. All the suspects were not there, but Ruo Kimani was there. Meanwhile IP Maina excused himself and said that he had to go to court and give evidence. He told us to wait for him until he comes back. He came back later at around 5.30pm and called the PPO to endeavour to consult him. He was instructed to continue as they had planned and agreed because nobody came out looking for Kimani Ruo. It was at this point that I came to know that the other two suspects were picked by some of the police team members and gunned down within Githurai 45 area. On coming back IP Maina mobilized other officers and told them to meet us at Shauri Moyo police station. He said that the instructions from the Commissioner of Police Major General Hussein Ali were that Kimani Ruo should be killed and the remains of his body should not be discovered by unauthorized person(s). Eventually IP Maina told all the officers to drive along Thika road up to Astro Petrol Station which is ahead of clay works and just before Ruiru town.

We got there at around 9.00 pm and stopped and waited for each other. They all came and we departed at 10.00 pm in a convoy of five vehicles full of police officers. Kimani Ruo was in my car. We directly crossed the two roads and took a rough road and drove towards Njiru inside Kenyatta’s family extensive farm. We drove for about four to five kilometers inside unoccupied extensive farm. There were no buildings or a sign of human life. The grass was too long and covered a big area. At some point IP Maina ordered the vehicles to stop and all the officers to alight. Kimani Ruo was also removed from the vehicle. Meanwhile, IP Maina instructed the officers to carry the tools in a way that Kimani Ruo would not understand. He said “beba vyombo vya kazi”. The officers complied and from Maina’s car they removed panga’s, ropes and rungun. They then took Kimani Ruo inside a bushy area about 300 meters inside. I was left in the vehicle but I could hear them murmuring for about 20 minutes. They did not come back with Kimani Ruo. Subsequently they started to discuss what they had done with him. It is PC Mbogo who started saying how he and PC Ndegwa tied him from behind and strangled him with the help of IP Maina and CPL Njoroge. They brought him down to the ground and started hacking him with pangas and hitting him with rungun. They disfigured his face so that nobody would recognize his body under all circumstances. We left the scene at around 12.30 am.

Although, we were supposed to drive up to Kasarani police station to take supper many officers declined. They said that if they were seen converging at Kasarani police station by officers from the station, it will definitely cause suspicion of their mission within the area. We dispersed and agreed to meet at the PPO's office Nairobi area, the next day the 23<sup>rd</sup> of June 2007. We converged there at around 8.00 am and IP Maina and CPL. Njoroge went to consult the PPO. On coming back they said that the PPO briefed the Commissioner of Police on phone but in their presence. That the commissioner was pleased with the work done and instructed us to remain quiet. They brought us Kshs.2000 each as a token from the PPO. We drove to the CID Headquarters and the two left us at the parking and proceeded to Mr. Githui's office. On coming back they told us that the director was also pleased and had directed that all the officers involved should make a false claim of five days as night out. We complied and we were all given Kshs.10,000 each.

The fifth execution occurred sometimes in, 2007, whereby it claimed the life of a Kikuyu businessman alias "Mushakuru" who used to be based at Kariobangi Light Industry. He was spotted by Cpl. Njoroge while attending a hearing of his case at Makadara Court. It appears that the execution team had gotten wind that he was to attend court that day and went to waylay him there. At some point he stepped out of the Court to buy airtime. The team led by CPL Njoroge picked him and detained him up to evening of that day. He was taken to Matuu that evening and tortured. His eyes were removed and he was finally killed alongside other unknown persons. They were all dumped in Matuu Dam. Meanwhile after completing the mission, CPL Njoroge and his team went to his place in Kariobangi and took the deceased's two personal vehicles. They drove them to Nairobi area where Mr. Katola appropriated one and gave the other one to Mr. Pius Barasa In—Charge of administration CID Headquarters. The type of the vehicle taken by Mr. Katola is a Toyota Fremio which is currently parked at CID Headquarters staff quarters where he lives.

At this juncture I wish to state that CPL Njoroge has in his possession a brand new Subaru outback that was appropriated after killing a suspect in Kikuyu, Kiambu.

The sixth execution is that of Maina Njenga's wife and her driver. The wife Virginia Nyakio was driving along Lang'ata road. She was being driven by her driver known as Ndungu son of Wagacha of Maimahiu. The two were confronted by the team led by IP. Maina and CPL Njoroge at the round about of Madaraka Estate along Lang'ata road. These Police executioners came in three vehicles and blocked them at the roundabout. They took them to Ngong Forest as they usually do. My informer confirmed to me that Mrs. Njenga was not actually raped but instead a bottle was inserted in her private parts.

Later in the evening, the two were then driven to Lukenya area of Machakos District. On reaching Emali, they took the road leading to Loitioktok and on the way they met an Administration Police officer's road block. Upon being stopped, they identified themselves as Police officers from Nairobi on official duties. They were eventually allowed to pass and proceed on. On reaching far ahead, they stopped the vehicle RAV 4 and burnt it down after vandalizing it. In fact they did set it on fire. They then set upon Mrs. Njenga and slashed her head. Her driver was also beaten to death with Rungus. They were then put in the boots of the officers cars and driven back towards Emali township. On reaching at the very roadblock, the

AP'S noticed that the RAV 4 was missing but they were told by the officers that it had been under their escort on its way to Tanzania.

The following day, some Maasai herdsmen discovered the burnt and vandalized vehicle. They reported to the Administration Police officers at the very roadblock. Upon visiting the scene they were able to recognize the vehicle as the one which had been under the escort of purported Nairobi Police officers the previous day.

On the other end, the executioners drove back to Nairobi with the dead bodies of the victims. They took Thika road and drove up to a place called Gakoe within Gatundu Area. This is where they dumped the bodies. They drove back to Nairobi and reported to the PPO Mr. Njagi Njue and Mr. Katola. They also reported to Mr. Barasa Staff Officer Administration at CID headquarters. The PPO protested against this action but they managed to convince him later. They told him that they will cook a story and say that its Mungiki followers who were killing each other after fallout. The created explanation was later bought by the Commissioner of Police Major-General Mohammed Hussein Ali who later released the same report to the public through a press release.

The team of executioners was composed of

1. IP Zebedeo Maina, Eagle 1 (cosign)
2. CPL Mohammed
3. PC Mbogo
4. PC (Dr. Koech) ‘
5. PC Ilo
6. PC Ndegwa
7. PC Noor
8. PC Odiek

The second team was led by:

1. Sgt. John Noroge Kamau
2. CPL Musoma
3. CPL Kimanga
4. PC (Driv) Limilu

The third team was led by:

1. Sgt. Muthee
2. CPL Kariuki and seven other officers.

These teams had gotten information that Mrs. Njenga was in possession of Kshs.5,000,000 and she was going to Ngong to pay her workers. It is said that they took all the money she had after killing them. Actually I am reliably told that in this particular execution they were mostly looking for the driver, Wagacha's son and not Mrs. Njenga. The Commissioner of Police went further to promote the executioners as a sign of appreciation as shown here below-

1. 2 officers were promoted to the rank Sergeants
2. 12 officers were promoted to the rank of Corporals.

As I stated there before, there were clear instructions from the Police Commissioner to kill all the purported Mungiki leaders. This is the reason why we had visited the Wagacha's homestead. In one of the visit, IP. Maina threatened the wife of Wagacha by telling her on the face that "we are going to wipe out all your children".

On the 29<sup>th</sup> day of April 2008 another son of Wagacha who was believed to be. a Mungiki strategist was killed along his driver while on the way to Naivasha to visit his chairman Maina Njenga. It is also believed that the two were bound to meet with the PC Rift Valley. On departing from Nairobi IP. Maina and his team got the wind from a Mr. Kariuki of Safaricom who usually /monitors tracks down the suspect's phones for them. The trailing turned out to be a chase to the extent that the victims called and reported to Nation media house that their lives were in danger. Meanwhile, as the Police were just about to catch up with them, the victim's car lost control and got into a trench. Eventually the police got there on time and shot them dead cold blood. In fact IP. Maina is said to have uttered the following words "washenzi mlikua mnafikiria mnaenda wapi". The executioners then took a large sum of money from the boot of the victims car. They then spend off from the scene. The officers responsible for this particular execution are IP Maina, Sgt. Njoroge, Muthee and others. They were using car hire vehicles Registration No.KBA 593 E and KBB 454 D make Toyota. They also had one police vehicle a Mitsubishi Galant.

The seventh execution occurred sometimes in September, 2007. Some three suspects were arrested from a bar in Shauri Moyo while having lunch. They had a vehicle-Nissan in type that looked like a matatu. They were driven up to Matasia area of Ngong where robbery was stage managed and they were shot dead. They were executed by IP. Maina. Afterwards unknown amount of money was withdrawn from their accounts using the ATM cards that had forcefully been confiscated from them. A police AK 47 and two pistols were planted on them to justify their killings.

The eighth execution was carried out by the same team sometimes in August, 2007. A suspect by the name Gachanja was arrested from a bar in Githurai at around 4.00 pm. He was driven along Kangundo road at about 8.00 pm. On reaching at the entrance to Komarrock road just after KCC, he was shot dead while lying down on his stomach.

Meanwhile, the ninth killing was within the same period whereby one of the most feared gangsters that Kenya has ever had Shimoli was accosted by the same team. He was travelling in a Nissan Sunny within Njiiru area in company of unknown colleague. They were taken to an open ground and shot dead cold blood. It was alleged that they were on a mission of going to commit a robbery in Mombasa.

The tenth execution took place sometimes in August, 2007. Two people one of them an army corporal were arrested near Dayspring hair salon Githurai 44. They were in possession of a magazine with 44 life ammunitions which they were going to sell in Eldoret. A colleague of them was also arrested and placed at Shauri Moyo police station cells without being booked in the OB as the procedures provides. The two were taken up to Eldoret on investigations. We spent

in hotels that I can show you. We came back to Nairobi and joined them with the one who had been, left at Shauri Moyo. They were all driven to Mwiki near Kenyatia's family farm and killed by shooting them dead.

The eleventh execution took place at Sagana Bridge on your way to Nyeri or Embu. This day many people died as results of these accidents. What happened is that we arrested two people whom we found cleaning their vehicle at Sagana Town at about 12.00 noon. We forced them into our vehicles. We drove with them up to Kapiti market where they remained at the back of our vehicles up to around 7.00 pm. Later we drove up to the bridge and the two were strangled to death with a rope. Their bodies were eventually dumped at Sagan River.

The twelfth execution took place sometimes in July, 2007. One suspect by the name 'Tosh' was picked from Githurai 44 along Kamiti road in a building near Star academy. We were under the command of o/c Special Unit Mr. Katola and Cpl. Njoroge. Thorough search was conducted in his house but no firearm was found. The suspect said that the firearm was with his brother whose whereabouts was not known. We remained at the scene up to about 5.00 am when Cpl. Njoroge told me to drive off. I was driving a land Rover KAK 744 F. After almost 500 meters he told me to stop the vehicle and he stepped out. He eventually ordered the suspect to step out of the vehicle. Upon stepping out of the vehicle, he shot him dead. He then dropped a firearm within the vicinity for it to appear as if it is the suspect who dropped it there. This is what they had agreed with Mr. Katola who had left the scene. Our firearm search team lead by IP Wahome were called at the scene. They came and at about 8.30 am they recovered the firearm. The wife of the suspect was also arrested and detained for three days.

The thirteenth execution involved the River Road tailor. The tailor had actually tipped one Corporal from CID Headquarters that some purported robbers were coming to store seven firearms at his place of work in preparation of a robbery they wanted to commit. The message was shared among us and we immediately laid an ambush. We remained at the scene on look out up to around 12.00 noon when we despaired and treated it as a hoax. We drove to Central Police station but after a short while we were called back to the scene. Some team rushed to the scene quickly and upon arrival, I could hear gunshots. The corporal from CID headquarters was shot dead along three suspects. The informer (tailor) was arrested along suspects and taken to Kamakunji Police station. In fact I can remember that he was photographed by media people while hanging on a police vehicle after the arrest. Later they were all picked up by Cpl. Njoroge, IP. Maina and the team. They were all shot dead in cold blood at City Park at around 7.00 pm. Firearms were planted on them at about 7.00 pm same day and I am reliably told that the Commissioner of Police Major-General Hussein Ali differed with the PPO Mr. Njue Njagi over these killings. His arguments were that you can't kill people who had been photographed by press while in Police custody.

The fourteenth execution was that of Sgt. Murimi. After two days Sgt. Murimi of Central Police was arrested by the same team in connection with the same information. He was taken to a place near Daystar University Athi River. He was tortured, strangled and later killed by the use of axes and a firearm by IP. Maina and Cpl. Njoroge.

The fifteenth execution took place in September, 2007; Carols a University student who had sometimes escaped from the University after rifles were discovered there, was arrested within

Buruburu area. In the evening of the same day, two other suspects were arrested in a pub at City centre and they were all killed along Landhies road at around 12.30 am. The same rifles that had been recovered at the University were planted on them.

The sixteenth execution took place in October; 2007. Three people were arrested in a hotel near Co-operative Bank house Nairobi while having a cup of tea. They were bundled in the boot of a car and driven to Industrial area near Astrol petrol station near a slum called kwa Rueben. The suspects were ordered to come out of the boot. They were led to a path and ordered to lie down. They were sprayed with bullets and died while lying down on their stomach.

The seventeenth execution, took place in October last year when we went to Mombasa Bamburi area where we arrested one suspect and we proceeded to Kenyatta beach whereby we arrested two other suspects. We stayed with them at Bamburi police Station up to the evening. From there we drove the vehicles together with the suspects in the boots up to Malindi. To a bridge known as Sabaki River bridge. The suspects were tied with ropes on their hands to the back and they were strangled to death by use of ropes and runkus and they were dumped in the river.

The eighteenth execution took place in October 2007. Three suspects arrested in Mombasa and they were killed by use of ropes, runkus and dumped in Musambweni river. The aim of killing them in that style is for the public, not to suspect they were killed by the police.

The nineteenth execution took place in Eldoret. Two suspects were arrested from Eldoret in the month of September and brought to Nairobi whereby they were killed in a quarry within Njiru area. They were said to be the ones who were selling bullets (ammunitions). They were arrested and 49 ammunitions recovered from their vehicle and one of them was Air force CPL. The manner in which they were killed is IP Maina played a demonstration as a driver- suspect and drove the vehicle at a high speed while shooting in the air. The purported police vehicle followed chasing him while shooting in air to create an impression that there was a chase. The suspects were removed from the vehicle and they were killed while lying down on their stomach.

The twentieth execution was that of last week 2008. Three suspects were tricked by IP Maina that he wants to discuss business with them. When they met IP Maina and his group at industrial area, they arrested them and they drove up to Wundanyi area whereby they killed them and left them in the bush. These are the number plate of the vehicles they are using KBA 593E, KBB 454D and KAV 698W. These are not the real numbers but fake ones.

These groups of executors are using car hire vehicles from Rome Car Hire. Even during the post election violence, two vehicles from that company were burnt down along Eldoret road together with one of police vehicles.

They use the car hire vehicles to conceal their identity because the public knows all the police vehicles and the types they use. There is no time police can use hired vehicles and for so long like that. They have been using the hired vehicles since 2007 April up to date.

The twenty first execution was carried out sometimes in October, 2007 when four suspects were arrested within Dandora area and taken to Eldoret town. They were then brought back to Nairobi and they were all killed in cold blood, at Marurui area and some rifles were planted on them.

One of the suspects tried to escape while we were parking our vehicles at PPO's office compound and he was chased and gunned down on the periphery of that compound. His body was placed in the boot and we joined others up to Marurui area.

The twenty second execution took place in the month of September, 2007 whereby five people were arrested at Makuyu road block while they were driving a Toyota Corolla towards Nairobi. They were said to have committed a robbery at sagana area. The cash they were having around 15,0001/= was taken by IP Maina. Later in the evening they were taken to Langata area near Ngeno estate within Dam. They were all removed from the vehicle and told to lie down, they were all sprayed with bullets together with their vehicle, AK47 pistols were placed in them so as to indicate they were robbers and they exchanged fire with the police officers.

The twenty third execution were carried out in the month of September at Thika flyover, where we arrested three suspects driving a Toyota Corolla. It was alleged that they wanted to commit a robbery within Thika area. They were bundled in their own vehicle's boot and driven to Nairobi and later in the evening they were killed in Kilimani along Gitanga road. The same Police exhibits rifles were planted on them.

Finally and the twenty fourth execution, a suspect was arrested with his two brothers. One who was a taxi man at Githurai 44. The suspect car was driven by CPL John Njoroge and abandoned on the streets of Naivasha town. IP Maina and other team members CPL Muthee picked the two brothers and proceeded with them up to Sagana River whereby they killed them and dumped them in the river. They later followed Nyeri route and joined us in Nakuru. We proceeded to Eldoret whereby during the day, they arrested two other suspects at the bus stage and we stayed with them in lodging near Eldoret show ground for three days. The two were killed and dumped in a river along Kakamega road. From Eldoret, we passed Mumias Kakamega via Nandi Hills road. The suspect from Nairobi was later killed along Nyahururu Nyeri road and placed in vehicle boot and later dumped in river Sagana.

That is all I wish to state.

Signed by me as a true record of my  
Statement given voluntarily, without  
any fear, force, promise, coercion or  
duress of any kind.

BERNARD KIRIINYA JKUNYUA  
25/06/2008

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